

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**C.R. No.1176 of 2006
Date of Decision: 29.10.2007**

Nagar Council, Sunam

.....Petitioner

Vs.

The Deputy Commissioner, Sangrur and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Mr. B.S.Sidhu, Advocate for the petitioner.

Mr. Tribhuvan Singla, Advocate for respondent No.3.

Rajesh Bindal, J.

This order will dispose of two revision petition bearing Nos.1176 and 1177 of 2006. However, the facts are being taken from Civil Revision No.1176 of 2006.

The challenge in the present petition is to the orders dated 29.10.2004 and 12.5.2005 passed by the Collector, Sub Division, Sunam whereby the petition filed by the petitioner under Sections 4 and 5 of the Punjab Public Premises and Lands (Eviction and Rent Recovery) Act, 1973 (for short, 'the Act') was dismissed in default and consequently, the application for restoration of the said petition was dismissed and also the order passed by the Deputy Commissioner, Sangrur exercising the powers of Commissioner whereby an appeal against that order was also dismissed.

Heard learned counsel for the parties and perused the paper book.

A perusal of order dated 29.10.2004 (Annexure P.1) passed by the Collector, Sub Division, Sunam shows that on account of non-appearance of the counsel for the petitioner, ejectment petition was dismissed in default. The application for restoration was filed only on 7.3.2005 which was contested by the respondents taking the plea that there were a number of similar petitions which were dismissed in default and when in other cases the application for restoration was filed within time, there was no reason for not filing the same within limitation in the present

case, accordingly, the present application being time-barred deserves dismissal. Finding the contention raised by the respondents to be reasonable, the Collector, Sub Division, Sunam, dismissed the application for restoration of the petition. The petitioner went in appeal against the order before the Deputy Commissioner, Sangrur exercising the power of Commissioner, Patiala Division, Patiala who also did not find favour with the contention raised by learned counsel for the petitioner for restoration of the petition which was dismissed in default as there was no explanation for the delay in filing the application for restoration when similar applications were filed in other cases which were dismissed in default. Still further, learned counsel for the respondents submitted that in fact, other petitions of similarly situated persons were ultimately dismissed on merits by the Collector, Sub Division, Sunam for the reason that the petitioners were not able to prove that they are owners of the property and the persons were unauthorised occupants thereof. However, in those cases liberty was given to the petitioners to firstly prove their ownership by taking recourse to filing of civil suit. Once the petitioner did not file the application for restoration of the petition for ejectment under the Act within limitation and there was no explanation for condonation of delay much less an application supported by an affidavit, in my opinion, no illegality has been committed by the authorities below. Still further keeping in view the fact that ultimately other similar petitions were finally dismissed on merits for the reason that the petitioners had not been able to prove their ownership on the premises, I do not find any illegality has been committed by the authorities below in dismissing the application for restoration of the petition and the appeal therefrom.

The revision petition is accordingly dismissed.

October 29, 2007

renu/DK

**(RAJESH BINDAL)
JUDGE**